



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Served: August 6, 2004

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*2004 U.S.-Mexico Combination Service Proceeding*

**DOCKET OST-2004-18692**

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**NOTICE**

By Order 2004-7-17, July 21, 2004, we instituted the *2004 U.S.-Mexico Combination Service Proceeding*, Docket OST-2004-18692, to select one primary and one backup carrier, to provide foreign air transportation of persons, property, and mail over the following transborder routes: Denver-Cancun, Denver-Puerto Vallarta, Detroit-Cancun, and St. Louis-Cancun. We also consolidated the already-filed applications into this proceeding. In addition, Order 2004-7-17 established a procedural timetable for this case as follows: Petitions for Reconsideration-July 28; Answers to Petitions-August 2; Direct Exhibits-August 16; Rebuttal Exhibits-August 30; and Briefs-September 7.

On July 27, 2004, Frontier Airlines, Inc. (Frontier) filed a petition for reconsideration, requesting additional time on the procedural schedule, stating that its carrier representatives are focusing on a variety of planning and scheduling issues including developing winter schedules, and are also responding to rapidly changing industry conditions. Frontier requested that the procedural schedule be modified by extending the dates as follows: Petitions for Reconsideration-no change; Answers to Petitions-August 9; Direct Exhibits-August 23; Rebuttal Exhibits-September 7; and Briefs-September 17.

By Notice dated July 30, 2004, we denied Frontier's request to extend the date for answers to petitions for reconsideration and deferred action on the balance of the request until after receipt of answers to the petition.

Frontier and United Air Lines, Inc. (United) each filed answers to the petition for reconsideration. In its answer, Frontier states that it continues to believe that some additional time must be allowed for each carrier to address thoroughly all of the issues. In this regard, Frontier specifically notes that the September 7 due date for briefs is immediately after the Labor Day weekend. Frontier states that it wants to see the selection process completed in a reasonable time period and, therefore, would accept a September 15 deadline for the submission of briefs as an alternative to its earlier-proposed deadline of September 17. United opposes Frontier's petition, stating that the Department should proceed with the schedule set forth in Order 2004-7-17. United argues that it is competing in both the Denver-Cancun and Denver-Puerto Vallarta city-pair proceedings, while Frontier is competing only in the St. Louis-Cancun city-pair proceeding; that, in establishing an expedited procedural schedule in Order 2004-7-17, the Department was, in fact, granting the requests of both United and Frontier to act on the applications as soon as possible; that Frontier's petition to extend the procedural dates is an attempt by Frontier to delay the introduction of competitive service in the Denver-Cancun market,

where Frontier is already an incumbent; and that Frontier's request contradicts the concern it expressed when it objected to United's request for *pendente lite* authority in the Denver-Cancun city-pair market on the basis that Departmental consideration of United's *pendente lite* request might delay the carrier selection proceedings here.<sup>1</sup> No other responsive pleadings were filed.

Upon consideration of the pleadings filed here, we have decided to grant, in part, the request of Frontier to extend the procedural schedule in this Docket. Accordingly, we will modify the procedural timetable established in Order 2004-7-17 as follows: Direct Exhibits will still be due no later than August 16, with Rebuttal Exhibits still due no later than August 30; however, Briefs will now be due no later than September 8. We will deny the request of Frontier for longer-term extension of the procedural dates in this proceeding.

As we have stated previously in this matter, in view of the immediate availability of the route rights involved, and in light of the carrier interest to commence services on these routes as soon as possible, it is our intent to process this case on an expedited procedural schedule. Under these circumstances, we do not believe that Frontier has provided any evidence to convince us that it would be in the public interest to extend the procedural dates as it has requested. That said, we have decided to modify the filing date for Briefs by one day to accommodate Frontier's specific concern regarding the Labor Day weekend. We believe our action here will not prejudice any party in this proceeding, as we can still maintain an expedited schedule in this proceeding.

Therefore, acting under authority assigned in 14 CFR 385.13(p), we modify the procedural schedule in this proceeding as outline above and, to the extent not granted, deny the request of Frontier for longer-term extension of the procedural timetable in this case. Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR 385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken (August 6, 2004), and the filing of a petition for review will not alter such effectiveness.

We will serve this notice by electronic mail on all parties to this proceeding, and hereby authorize service of documents by facsimile and by electronic mail.

By:

**PAUL L. GRETCH**  
Director, Office of International Aviation

(SEAL)

Dated: **August 6, 2004**

An electronic version of this notice is available on the World Wide Web at:  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)

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<sup>1</sup> See Frontier's answer dated July 26 to United's motion for *pendente lite* authority, at 4.